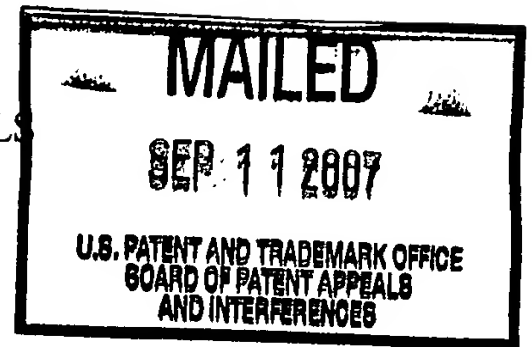


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte: LARRY W. DEPOORTER, CRAIG G. WALLINGTON,
EDGAR A. CHOW, ROBERT A. ODABASHIAN and DILIP K. BOAL

Application No. 09/446,807

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on August 22, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

EXAMINER'S ANSWER

New Grounds of Rejection

A Final Rejection was mailed June 3, 2004, withdrawing the rejection of Claims 1-13 under 35 U.S.C. 112 second paragraph. However, when the Examiner's Answer dated August 21, 2005, was mailed the rejection of Claims 1-13 under 35 U.S.C. 112 second paragraph was reinstated. This constitutes a new ground of rejection.

When a new ground of rejection is introduced in the Examiner's Answer, the Examiner is required to obtain approval of the Technology Center Director or his/her designee. See MPEP

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§ 1207.02. Further, any new ground of rejection is required to be prominently identified, eg., a separate heading with all capitalized letters. See MPEP § 1207.02(A)(6)(d).

To correct this problem, the examiner will need to vacate the Supplemental Examiner's Answer mailed April 21, 2005, and mail a revised Examiner's Answer with the approval of the Technology Center Director or designee.

Correction of the record is required.

CONCLUSION

Accordingly, it is

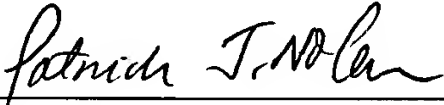
ORDERED that the application is returned to the examiner to:

1) vacate the Examiner's Answer dated April 21, 2005, issue a revised Examiner's Answer clearly identifying the rejections of record and to include the approval of the Technology Center Director or his/her designee (if appropriate) for any new ground of rejection;

and

2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES



PATRICK J. NOLAN
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PJN/dpv

Application No. 09/446,807

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